

REGULAR

ORDINANCE NO. 54.24

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING SECTION 5.05 OF CHAPTER 20 OF TITLE I OF THE MILPITAS MUNICIPAL CODE TO PROVIDE THAT NOTICES OF APPEAL TO THE CITY COUNCIL SHALL ONLY BE EFFECTIVE UPON PAYMENT OF THE FEE ADOPTED OR AMENDED BY RESOLUTION OF THE MILPITAS CITY COUNCIL

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, upon motion by _____ and was adopted (second reading) by the City Council at its meeting of _____, upon motion by Councilmember _____. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose S Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

Section 1

Section 5.05 of Chapter 20 of Title I of the Milpitas Municipal Code is hereby amended to read as follows:

“I-20-5.05 Notice shall be effective when requirements are met

A notice of appeal shall not be effective unless said notice shall be filed and, where required, the fee adopted or amended by resolution of the Milpitas City Council paid within the time herein required.”

Section 2. PUBLICATION AND EFFECTIVE DATE.

Pursuant to the provisions of Government Code Section 36933, a Summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting.

Section 3. SEVERABILITY

In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING THE
CHAIR OF THE COMMUNITY ADVISORY COMMISSION TO APPOINT A THREE-
MEMBER APPEAL BOARD FOR THE PURPOSE OF HEARING APPEALS FROM
ADMINISTRATIVE HEARINGS FOR VIOLATIONS OF CHAPTER 210 OF TITLE V OF
THE MILPITAS MUNICIPAL CODE, "ANIMAL REGULATION"**

WHEREAS, section 13.08 of Chapter 210 of Title V of the Milpitas Municipal Code provides that the decision of an administrative hearing officer regarding violations of the City's Animal Regulation ordinance may be appealed to an Appeal Board made up of one or more persons to be established by the City Council by resolution; and

WHEREAS, the Community Advisory Commission serves as an advisory body to the City Council on a diverse array of issues affecting Milpitas citizens, including City-wide beautification, planning and neighborhood abatement, and served an instrumental role in the development of the Neighborhood Beautification Ordinance, Chapter 500 of Title V of the Milpitas Municipal Code; and

WHEREAS, this advisory body is thus well-qualified to provide members to the Appeal Board contemplated in the Animal Regulation ordinance; and

WHEREAS, this Appeal Board, once appointed by the Community Advisory Commission, shall serve as an adjudicatory body charged with hearing all appeals of decisions of administrative hearing officers with respect to violations of the Animal Regulation ordinance, according to the procedures and provisions of Milpitas Municipal Code section I-20-5, and all references therein shall be deemed for the purposes of the appeal to refer to the Appeal Board; and

WHEREAS, the City Council desires that the chair of the Community Advisory Commission should appoint members to the Appeal Board, to serve two year terms.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milpitas, as follows:

1. The City Council hereby authorizes the chair of the Community Advisory Commission to appoint three members of the Community Advisory Commission as members to an Appeal Board for purposes of hearing appeals of the City's Animal Regulation ordinance. Members appointed to the Appeal Board shall serve two-year terms.

2. Once appointed, the Appeal Board shall serve to hear all appeals from decisions of administrative hearing officers regarding violations of the Animal Regulation ordinance. The Appeal Board shall follow the appeals procedures outlined in section I-20-5 of the Milpitas Municipal Code. All decisions of the Appeal Board shall be final.

PASSED AND ADOPTED this 15th day of March 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Gail Blalock, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney